

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

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November 3, 2005

Memo To Counsel Re: MDL-15863, Alger Subtrack;
Bernstein v. Fred Alger Mgmt., Inc., et al.
Civil No. JFM-04-0861

Dear Counsel:

The purpose of this letter is to rule upon the pending motions to dismiss the **consolidated amended fund derivative complaint** in the *Alger* subtrack.

Claims other than the section 36(b) claim. Motions are granted for the same reasons stated in the fund derivative opinion I issued in the *Janus* subtrack

Section 36(b) claim. For the reasons stated in the fund derivative opinion I issued in the *Janus* subtrack, I find that plaintiffs have a cognizable claim under section 36(b).

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order.

Very truly yours,

/s/

J. Frederick Motz
United States District Judge